



U.S. GOVERNMENT FACIAL RECOGNITION

LEGAL SERIES – FORUM 3

sponsored by the FBI Biometric Center of Excellence in
conjunction with the Department of Defense





Why is the Public a Concern?

As Agency lawyers/policymakers/technologists, who is your primary constituent?

- A. POTUS
- B. Specific Agency/Organization
- C. U.S. Citizenry
- D. All of the Above

Bottom line: the public has a voice and it can have a significant impact on developing policy!



Public Attitudes Toward Emerging Technology



NFL Surveillance
Reaction



DARPA's IAO
Program Cancelled



Airport Body
Scanners Backlash

2001

2003

2005

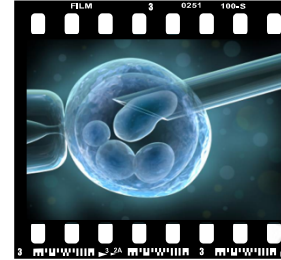
2010

2011

Sept. 11 Shift in
Landscape

Stem Cell Bill Eases
Restrictions

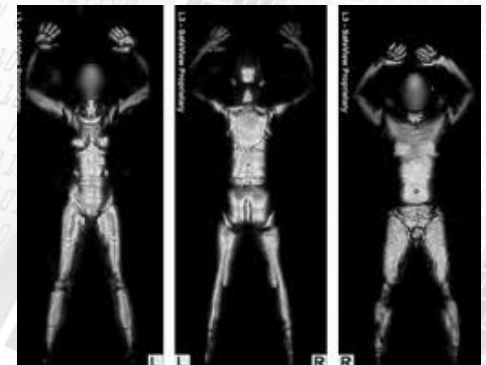
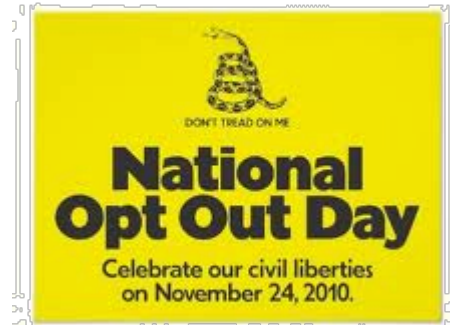
States Ban Traffic
Cameras



Case Study: Body Scanner Backlash



- On Sept 10, 2010, DHS Secretary Napolitano Announced increased deployments of Advanced Imaging Technology (aka Body Scans)
- By early Nov, national news headlines told of significant privacy concerns, “Opt Out” protest movement
 - growing number of airline passengers, labor unions, and advocacy groups say the new procedures--a choice of full-body scans or what the TSA delicately calls "enhanced pat-downs"--go too far.



Public Opinion



- The more salient an issue to the public, the more impact opinion has on policy development
- The relationship is threatened by the power of interest organizations, political parties and economic elites
- No one believes that public opinion always determines public policy – few believe it never does
- It is a matter of degree – how much does it influence?



Public Opinion



- When it has been measured – public opinion affects policy 75% of the time
- Its effect is of substantial policy importance at least a third of the time, and probably a fair amount more
- Salience does affect the impact of public opinion on policy (salience is an index of the effectiveness of a stimulus – something prominent or noticeable)



Public Opinion Toward Emerging Technologies



2005 study specifically focused on nanotechnology, but there are parallels to biometrics

- A lack of concrete factual information on the part of citizens does not mean they will not form attitudes toward the technology
- Citizens will use cognitive shortcuts such as ideological predispositions or cues from mass media to form judgments, often based on a general feeling
- People make judgments based on past experiences of scientific breakthroughs



Public Opinion Toward Emerging Technologies



Cont'd

- Fear, worry, dread, or anxiety, experienced at the point of decision making, serves as an important cue when assessing potential risks
- In other words, emotional reactions to potential risks will often produce significantly different reactions than purely cognitive assessments of those risks
- In the area of science and technology, negative emotions have disproportionate influence on public attitudes and perceptions



The Issue Cycle



- People tend to perceive emerging technologies in their early stages in a fairly balanced manner by considering risks and benefits
- As the issue develops, it enters the political arena, and different players struggle to highlight the benefits over the risks, and vice versa
- At this stage, citizens will make a decision about whether they agree with the technology, by paying selective attention to its positive or negatives aspects
- As a result, researchers see a negative correlation between risk perceptions and benefit perceptions as the technology moves through the issue cycle



Science Literacy Model



- The assumption behind the science literacy model – **that people will be more open toward new technologies if they know more about them** – holds only for respondents whose cognitive considerations are not overridden by emotional heuristics
- In general, people's emotional reactions are influenced, in part, by their experiences and perceptions of previous scientific controversies



Parsing the Publics

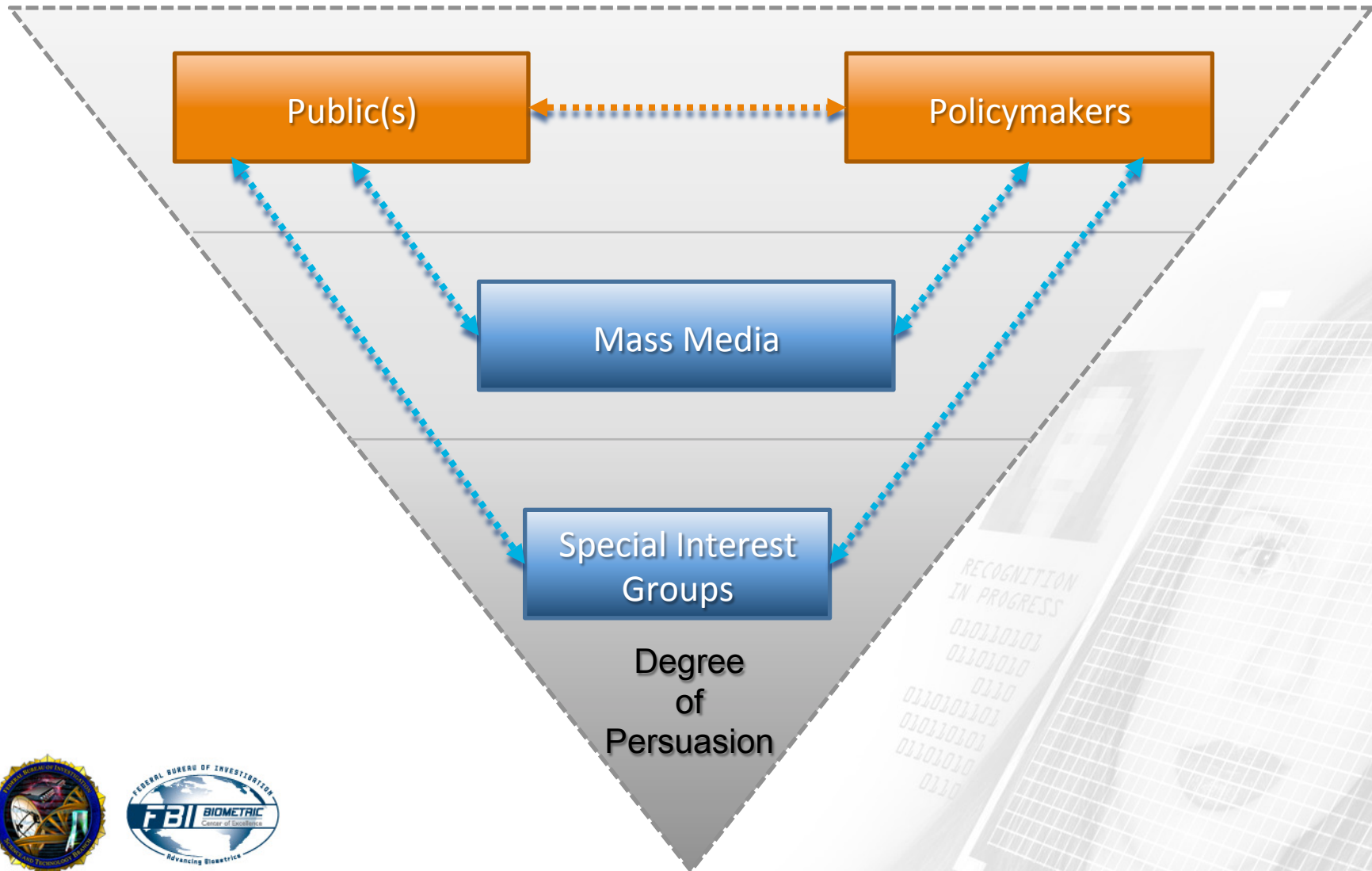


- Vocal minorities
 - Advocacy Groups
 - Mass media
 - New media
 - Popular culture
- Level of connection to the issues
 - Privacy Fundamentalists: max extreme of privacy concern, most protective. Support stronger laws.
 - Privacy Unconcerned: least protective, benefits outweigh risks. Do not favor expanded regulation.
 - Privacy Pragmatists: weigh pros and cons, evaluate existing protections, then decide.





Perception Landscape



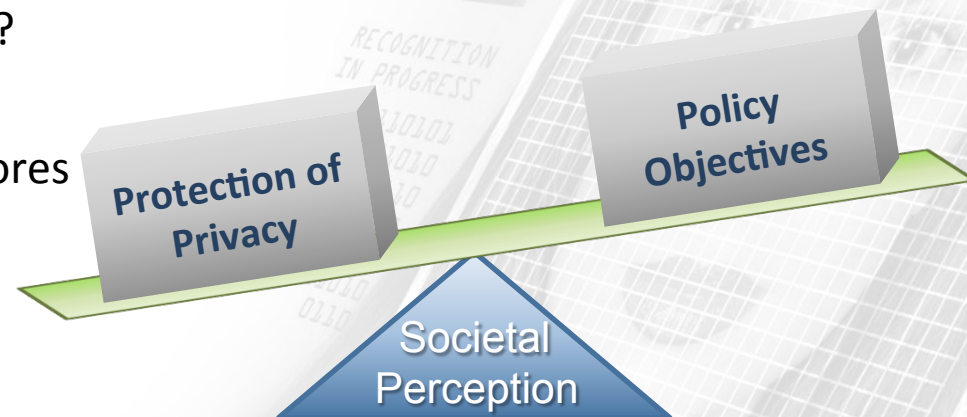
Legal Underpinning



- 4th Amendment privacy parameters:
 - Visibility of the technology
 - Commonality of its usage
 - Context within which it's used
 - Purpose for which it's used
- Public Exposure:
 - Plain view doctrine (e.g. drugs on dashboard)
 - Retaining expectations of privacy
- What is “reasonable” expectations of privacy?
 - Public drives standards of reasonableness
 - Derived from current social and political mores
 - Juxtaposed against policy objectives

Contributing Social Mores

- Security
- The right to fair trial
- The presumption of innocence
- Freedom of movement
- Prohibition of discrimination
- Consent/transparency
- Function creep



What Does the Public Think About Biometrics?



SEARCH survey immediately after 9/11 and one year later

Representative Survey Data	Sep. 2001	Aug. 2002
Misuse of personal information was a concern.	87%	88%
Thought law enforcement authorities would use biometrics solely for anti-terrorist work.	68%	62%
Felt increases in correct identification of people, with rules in place, outweigh concerns about providing the identifiers.	65%	56%
Were confident safeguards will be adopted to protect against misuses of biometric information.	80%	73%
Believed government organizations are SOMEWHAT justified in adopting biometrics to prevent crime.	86%	80%
<ul style="list-style-type: none"> • VERY justified? 	48%	34%
Believed people should be fully informed about the uses the organization will make of their biometric ID and why it is needed.	89%	86%

Bottom Line: majority of public supports biometrics but privacy concerns reemerge as 9/11 recedes further into memory



Biometrics



- 2006 – Article in IEEE Magazine by Perakslis & Wolk
 - Terrorism, identity fraud, and convenience is driving public acceptance of biometrics
 - Primary concern is privacy, secondary concern is data security
 - Public support high for law enforcement for antiterrorism activities or crime prevention (80-86%)
 - High public insistence that privacy safeguards be established and maintained
 - Privacy is a prime concern in all countries
 - Specific concern relate to privacy issues include government abuse and the access and misuse of information by criminals or unauthorized persons
 - Over half of respondents consider “privacy concerns” as the area of primary hesitation when considering biometrics
 - Secondary concern is data security



Biometrics



- 2011 Unisys Security Index –
 - Roughly half of Americans would be willing to provide personal biometric information to enhance security around everyday activities
- 2010 Study at Columbus (GA) State –
 - Facial imaging intrusiveness concerned 43% of respondents, and there appeared to be a significant level of concern regarding the maintenance of biometric data confidentiality by institutions storing data



Takeaways



- Public Opinion exerts influence on privacy policy through
 - democratic process: selecting representatives, rulemaking comment periods, etc.
 - Constitutional interpretation of reasonableness (privacy expectation)
- Confusion and misunderstanding around emerging technologies argues for early engagement to educate and counteract vocal minorities
- Transparency and honesty are always the best approach
- Ignore public opinion at your peril!



Sources



- Burstein – The Impact of Public Opinion on Public Policy: A Review and an Agenda (2003)
- Lee, Scheufele, Lewenstein -Public Attitudes toward Emerging Technologies (2005)
- Unisys Security Index 2011
- Patrick – Acceptance of Biometrics: Things That Matter That We Are Ignoring (2008)
- Perakslis & Wolk – Social Acceptance of RFID as a Biometric Security Method (2006)

